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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,235	10/03/2003	Stephane F. Rouanet	03031	3544

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EXAMINER

HUYNH, KHOA D

ART UNIT PAPER NUMBER

3751

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,235

Applicant(s)

ROUANET ET AL.

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 19-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/29/03; 2/3/05; 1/25/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I, directed to claims 1-18, in the reply filed on 02/23/2005 is acknowledged. Claims 19-53 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to the nonelected invention.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the vessel having at least to parallel thermoplastic sheets, two or more support members defining one or more channels must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an

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application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The abstract of the disclosure is objected to because it uses phrase that can be implied, such as "The invention provides". Correction is suggested. See MPEP § 608.01(b).

Claim Objections

4. Claim 18 is objected to because of the following informalities: the parenthesis surrounding the terms should not be used. Appropriate correction is suggested.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 8-10 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of claims 8-19 recites the limitation "the channels" in line 2. There is insufficient antecedent basis for this limitation in the claims.

Claim 17 recites the limitation "the channels" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

8. Claims 1, 3, 4, 6 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Rocchio et al. (US 2004/0003866 A1).

Regarding claim 1, the Rocchio et al. reference discloses an apparatus for filling a particulate material (115) from a supply container (105) into a vessel (125). As schematically shown in Figure 2c, the vessel includes a length, a width and an internal volume. As schematically shown in Figure 5A, the vessel is subject to a vibratory motion (Fig. 5A), via an actuator (225), as the internal volume of the vessel in being filled with the particulate material to the desire amount. The method as claimed would be inherent during the normal use and operation of the Rocchio et al. device.

Regarding claims 3 and 4, as schematically shown in Figure 5B or 5C, the vessel is further subject to a tamping motion, via a device (at 240 or 250), along the length of the vessel by impacting a portion of the vessel through a stationary surface (at 130). The method as claimed would be inherent during the normal use and operation of the Rocchio et al. device.

Regarding claim 6, the Rocchio et al. reference also discloses that the vessel is simultaneously subjected to the tamping motion and the vibratory motion (page 4, left column, lines 7-12). The method as claimed would be inherent during the normal use and operation of the Rocchio et al. device.

Regarding claim 7, the Rocchio et al. reference also discloses that the vibratory motion is ceased before the vessel is subjected to the tamping motion (page 4, left column, lines 7-12). The method as claimed would be inherent during the normal use and operation of the Rocchio et al. device.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rocchio et al. (as discussed above).

Regarding claim 5, the Rocchio et al. reference DIFFERS in that it does not specifically indicate tamping motion subjects to at least one deceleration of at least about 900 m/s^2 as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such deceleration for the tamping motion since discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

11. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rocchio et al. (as discussed above) in view of Krush et al. (6250792).

Regarding claim 2, the Rocchio et al. reference DIFFERS in that it does not specifically disclose that the vibratory motion is a sinusoidal motion as claimed. Attention, however, is directed to the Krush et al. reference which discloses a vibration device (10) used in powders filling/dispensing apparatus (col. 1, lines 12-25; col. 5, line 15) is known. The vibration device produces sinusoidal vibration or motion to transfer forces and impact impulses to the container wall to promote free flow of powder material. Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to have modified the Rocchio et al. device by employing a sinusoidal vibration or motion, in view of the teaching of Krush et al., in order to disturb the powder in the container to promote free flow of powder. The method as claimed would be inherent during the normal use and operation of the modified Rocchio et al. device.

12. Claims 8-11, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocchio et al. (as discussed above) in view of Nijima et al. (JP408268534).

Regarding claims 8-10, the Rocchio et al. reference DIFFERS in that it does not specifically disclose the use of humidified air to reduce the amount of static electricity as claimed. Attention, however, is directed to the Nijima et al. reference which discloses a power supply device. The device includes a

vibration device (2) to excite the power (7) inside the container (at 3). The Nijima et al. reference also discloses that humidified air is injected into the container to discharge or eliminate the static electricity generated by the vibration device (2). Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to have modified the Rocchio et al. device by injecting humidified air into the powder, in view of the teaching of Nijima et al., in order to eliminate the static electricity generated by the vibration device. The method as claimed would be inherent during the normal use and operation of the modified Rocchio et al. device.

Regarding claim 11, the modified Rocchio et al. reference DIFFERS in that it does not specifically indicate the relative humidity of about 80% or more as claimed. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ such percentage of relative humidity for the humidified air since discovering an optimum value for humidified air of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

13. Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocchio et al. (as discussed above) in view of Sato et al. (US 2004/0134560).

The Rocchio et al. reference DIFFERS in that it does not specifically disclose the use of humidified air to reduce the amount of static electricity as claimed. Attention, however, is directed to the Sato et al. reference which discloses a power supply device. The device includes a corona charging device

(29) to ionize air for purpose of delivering ions to surfaces to be charged.

Therefore, it would have been obvious to one of ordinary skill in the art the time the invention was made to have modified the Rocchio et al. device by employing a corona charging device, in view of the teaching of Sato et al., in order to apply a uniform charge of positive polarity across the entire surface of the receptacle. The method as claimed would be inherent during the normal use and operation of the modified Rocchio et al. device.

14. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocchio et al. (as discussed above).

The Rocchio et al. reference DIFFERS in that it does not used to fill powder comprising metal oxide aerogel particles as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Rocchio et al. device to fill powder containing metal oxide aerogel particles. Such modification would considered a mere choice of a preferred filling material on the basis of its suitability for the intended use especially since applicant also discloses that the method can be used to fill the receptacle with any suitable particulate matter (page 15, paragraph [0053]). The method as claimed would be inherent during the normal use and operation of the modified Rocchio et al. device.

15. Claims 17 and 18, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Rocchio et al. (as discussed above).

Regarding claim 17 (as best understood without proper support from the specification), even though the Rocchio et al. reference does not specifically disclose the structure of the receptacle as claimed, it, however, would have been obvious to one of ordinary skill in the art to recognize that the receptacle, as schematically shown in Figure 2C, includes a two parallel plastic sheets (the outer walls of the receptacle 125) and two support members (the inner walls of the receptacle 125), wherein the support members define a channel having the internal volume. The method as claimed would be inherent during the normal use and operation of the modified Rocchio et al. device.

Regarding claim 18, the modified Rocchio et al. reference DIFFERS in that it does not specifically disclose that the sheets including a thermoplastic resin as claimed. It, however, would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Rocchio et al. device by employing a thermoplastic resin for the sheets. Such modification would considered a mere choice of a preferred material on the basis of its suitability for the intended use especially since applicant also discloses that the method can be used to fill the particulate material with any suitable vessel (page 15, paragraph [0052]). The method as claimed would be inherent during the normal use and operation of the modified Rocchio et al. device.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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